

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN JOSEPH SIMMONS,
Petitioner,
v.
PEOPLE OF THE STATE OF
CALIFORNIA,
Respondent.

No. 2:21-cv-01033 KJM AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 19, 2022, the magistrate judge filed findings and recommendations, which were served on petitioner and which contained notice to petitioner that any objections to the findings and recommendations were to be filed within twenty-one days. F&R, ECF No. 14. Petitioner has not filed objections to the findings and recommendations. However, objections have been filed on petitioner's behalf by Laura Simmons, who appears to be a relative of petitioner. Obj., ECF No. 15.

The court does not typically accept filings on behalf of a party by non-attorneys. However, in the interest of justice and in accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. The

1 objection to this case repeats the same arguments petitioner made in his previous pleadings, ECF
2 Nos. 11, 15, which the magistrate judge reviewed, F&R at 1–2. Having reviewed the file, the
3 court finds the findings and recommendations to be supported by the record and by the proper
4 analysis.

5 Accordingly, IT IS HEREBY ORDERED:

- 6 1. The findings and recommendations filed October 19, 2022 (ECF No. 14), are adopted
7 in full;
8 2. This action is dismissed without prejudice as second or successive; and
9 3. The court declines to issue the certificate of appealability referenced in 28 U.S.C.
10 § 2253.

11 DATED: January 17, 2023.

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15 CHIEF UNITED STATES DISTRICT JUDGE
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